IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO.1186/1996
(RSRTC & Ors. Vs. Bhagwati Lal & Ors.)

Date of order : 2.11.2007

P R E S E N T

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. V.K. Vyas, for the petitioner.
None for the respondents.

By way of filing the present writ petition, the petitioner has challenged the order dated 7.2.1996 (Annexure-4) passed by Judge, Labour Court, Bhilwara on application filed under Section 33-C (2) of Industrial Disputes Act, 1947 by the respondent-workman.

According to the facts inter-alia narrated in the writ petition, an award dated 16.2.1993 was passed by Judge, Labour Court, Bhilwara whereby termination of the respondent workman was set aside and he was ordered to be reinstated upon the post on which he was working on 7.6.1979 and further passed an order for continuity of service but no backwages were allowed. The Judge, Labour Court allowed Rs.5000/- as compensation to the workman.

The award passed by Judge, Labour Court on

16.2.1993 was published in official gazette on 16.4.1993. Against the said award, a writ petition was preferred before this Court and the same was registered as SB Civil Writ Petition No.3930/1993.

It is mentioned in the writ petition that along with the writ petition an application for stay was also filed whereupon this Court has passed an order that "meanwhile, the award to the extent of cost shall not be executed."

According to the petitioner, the award of the Judge, Labour Court was to be executed within a period of one month from the date of its publication. The respondent-workman was reinstated in service vide order dated 12.11.1993 and in pursuance thereof he joined duties on 17.11.1993. It is clear that in the award passed by Judge, Labour Court only reinstatement was allowed but the respondent workman was not held entitled for backwages and specific order was made to reinstate the workman within one month from the date of publication of award. Therefore, the petitioner-Corporation has complied with the award as directed by Judge, Labour Court after publication. It is also mentioned in the writ petition that respondent-workman has been paid his wages regularly after his reinstatement for the period he has actually worked on the post. Therefore, vide order dated 7.2.1996, the learned Judge, Labour Court has committed an error

while allowing the amount of salary w.e.f. 20.4.1993 to 16.11.1993. It is contended by the learned counsel for the petitioner that the Judge, Labour Court has passed the award on 16.2.1993 and it was published on 16.4.1993. Learned counsel for the petitioner argued that in reference Chief Manager, Rajasthan State Road Transport Corporation, Ajmer was party and award was passed by Judge, Labour Court against Divisional Manager, Rajasthan State Road Transport Corporation, Ajmer but in the present proceedings the application has filed under Section 33-C (2) of the Act against Chief Manager, Rajasthan State Road Transport Corporation, Bhilwara but Judge, Labour Court has ignored the fact that in the award Chief Manager, Rajasthan State Road Transport Corporation, Bhilwara was not party and while taking into consideration the minutes of meeting dated 30.8.1991 whereby the Corporation delegated the powers of Divisional Manager, Rajasthan State Road Transport Corporation, Ajmer to Chief Manager, Rajasthan State Road Transport Corporation, Bhilwara. According to the learned counsel for the petitioner, learned Judge Labour Court has committed an error while accepting the minutes of meeting dated 30.8.1991 and further committed an error while passing an order for payment of salary w.e.f. 20.4.1993 to 16.11.1993. The Chief Manager, Rajasthan State Road Transport Corporation, Bhilwara was not party, therefore, the order passed by Judge, Labour Court on 7.2.1996 upon application filed under

Section 33-C(2) of the Act is totally erroneous and deserves to be quashed.

No one appears on behalf of the respondent.

However, upon perusal of the order impugned, it is revealed that award was passed by Judge, Labour Court for reinstatement of the respondent workman on 16.2.1993 and the publication was made on 16.4.1993, therefore, the respondent workman was to be reinstated in accordance with the award within one month from the date of publication of award and workman filed an application on 20.4.1993 after publication of award for joining but he was not taken on duty and later on order of reinstatement was passed on 12.11.1993 and in pursuance of that, the respondent workman joined the duties on 17.11.1993. Meaning thereby, the Judge, Labour Court while deciding the application under Section 33-C (2) of the Act rightly passed an order for payment of salary because under the award the workman was to be reinstated in service within one month from the date of publication of award and admittedly according to the facts of the case, the workman was reinstated in service on 17.11.1993 whereas he has filed application on 20.4.1993 after publication of award on 16.4.1993.

Similarly with regard to objection raised by the petitioner that in the award Divisional Manager,

Rajasthan State Road Transport Corporation, Ajmer was party whereas in the application filed under Section 33-C(2) of the Act Chief Manager, Rajasthan State Road Transport Corporation, Bhilwara was impleaded as party, in my opinion, on the basis of documentary evidence, the learned Judge, Labour Court has rightly adjudicated that on the basis of delegation of power of Divisional Manager, Rajasthan State Road Transport Corporation, Ajmer to the Chief Manager, Rajasthan State Road Transport Corporation, Bhilwara, the workman has rightly impleaded him as a party. Therefore, according to the facts of the case, there is no dispute with regard to passing an order for joining of the petitioner on 17.11.1993 by the Corporation whereas the petitioner-Corporation was under obligation to comply with the award within a period of one month from the date of publication and admittedly the award was published on 16.4.1993 and workman filed an application on 20.4.1993 but he was not taken on duty nor any order of reinstatement was passed within a period of one month from the date of publication of award and later on the workman was reinstated in service on 17.11.1993. In this view of the matter, there is no force in the writ petition. Hence the writ petition is dismissed.

(GOPAL KRISHAN VYAS), J.

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